

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**LARRY DALE JOHNSON,**

Plaintiff,

No. 3:11-cv-00514-ST

v.

OPINION AND ORDER

**RAYMOND WESTERMAYER,**

Defendant.

**MOSMAN, J.,**

On April 30, 2014, Magistrate Judge Stewart issued her Findings and Recommendation (“F&R”) [170] in the above-captioned case, recommending that summary judgment be granted for Mr. Westermeyer on all of Mr. Johnson’s claims. Mr. Johnson objected [174], and Dr. Westermeyer responded [175].

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. I am not bound by the recommendations of the magistrate judge; instead, I retain responsibility for making the final determination. I am required to review *de novo* those portions of the report or any specified findings or recommendations within it to which an objection is made. 28 U.S.C. § 636(b)(1). However, I am not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those

portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether objections have been filed, in either case I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1).

Upon review, I agree with Judge Stewart's recommendation, and I ADOPT the F&R [170] as my own opinion. Accordingly, Dr. Westermeyer's Motion for Summary Judgment [138] is GRANTED and Mr. Johnson's Motion for Summary Judgment [132] is DENIED. Further, Mr. Johnson's Objection to Order Granting Defendant's Motion To Withdraw Motion for Summary Judgment [154] is deemed referred for review under Rule 72(a) of the Federal Rules of Civil Procedure. Because Judge Stewart's order [136] was neither clearly erroneous nor contrary to law, the objection is OVERRULED.

IT IS SO ORDERED.

DATED this 19th day of June, 2014.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Judge